

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 3:11-CV-30171-MAP

IMEDICOR, INC., F/K/A VEMICS, INC.
PLAINTIFF AND DEFENDANT-IN-COUNTERCLAIM
v.

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY
DEFENDANT AND PLAINTIFF-IN-COUNTERCLAIM

MOTION TO QUASH SUBPOENA

Defendant and Plaintiff-in-Counterclaim, Massachusetts Mutual Life Insurance Company ("MassMutual"), moves pursuant to Fed. R. Civ. P. 45(c)(3)(A)(iv), to quash as oppressive, unreasonable, frivolous and unduly burdensome, the last-minute, eve-of-trial subpoena served by plaintiff, Imedicator, Inc. ("Imedicator"), on MassMutual's President, Chief Executive Officer, and Chairman, Roger Crandall ("Mr. Crandall"). A copy of the subpoena is attached hereto as Exhibit A.

Federal Rule of Civil Procedure 45(c)(3)(A)(iv) commands that a court "shall" quash or modify a subpoena if the subpoena "subjects a person to undue burden." The Rule protects persons for whom compliance with a subpoena would be an undue burden, and imposes sanctions on serving parties who fail to take the reasonable steps to avoid such a burden. Fed. R. Civ. P. 45(c)(1). *See Heidelberg Americas v. Tokyo Kikai Seisakusho*, 333 F. 3d 38, 41 (1st Cir. 2003).

In this case, Mr. Crandall has never appeared on any witness list filed by the plaintiff, not even as a potential witness. To the knowledge of undersigned counsel for MassMutual, Mr. Crandall's name appears on no document related to this case in any respect, whether as sender, recipient, person cc'd, or even as someone mentioned in the document. Undersigned counsel for

*Allowed. The party is not listed as a witness in the final pretrial memo.
So ordered. Michael B. Pouso USDC 5.2.13*